



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/756,898

01/14/2004

Jeffrey K. Daniel

123018.0008.000

3104

66558

7590

03/13/2009

Houston IP Department
JACKSON WALKER L.L.P.
1401 McKinney St.
Suite 1900
Houston, TX 77010

EXAMINER

BONCK, RODNEY H

ART UNIT

PAPER NUMBER

3655

MAIL DATE

DELIVERY MODE

03/13/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/756,898	Applicant(s) DANIEL, JEFFREY K.	
	Examiner Rodney H. Bonck	Art Unit 3655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14, 16-24, 27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14, 16-24, 27 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The following action is in response to the request for reconsideration received December 8, 2008. Currently, claims 1-12, 14, 16-24, 27 and 28 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 9-12, 14, 16-24 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoff et al.('994) in view of Hendrickson('641). The Hoff et al. device discloses a system comprising a power input shaft 27, a power output shaft 46, agricultural machinery 44 coupled to the power output shaft, and a right-angle gearbox and clutch system. The right-angle gearbox and clutch system has a right angle gear mechanism 30, 35 and a clutch mechanism disposed between the right angle gear mechanism and the power output shaft. An enclosure 53, together with housing 20, encloses the clutch mechanism. It appears that the presence of a "grease-retaining, dust-excluding washer" in Hoff et al. would imply the presence of lubricant within the clutch mechanism, it would clearly have been obvious if view of Hendrickson to provide

Art Unit: 3655

lubricant in the clutch enclosure, the motivation being to cool and lubricate the system.

Hendrickson discloses a right angle gearbox and clutch system having a right angle gear mechanism 60, 62 and wet, slip clutch assembly 64. The gear enclosure and clutch enclosure are in fluid communication. Thus, the same lubricant is used for both.

With separate enclosures for the gearing and clutch, as in Hoff et al., it would have been obvious to use different lubricants where different lubricants are better suited to each of the clutch and gearing. While the Hoff et al. agricultural device is hand-held, it would have been obvious to size it to be coupled to and powered by a vehicle PTO, as suggested by Hendrickson.

Claims 8 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoff et al.('994) in view of Hendrickson('641) as applied to claims 1-7, 9-12, 14, 16-24 and 27 above, and further in view of Howard('274). Howard discloses a right angle gearbox and clutch system that is external to a vehicle and external to the driven equipment. The clutch 31 is adapted for connection to the PTO of a vehicle, such as a tractor, and flange 58 is adapted to connection to the driven implement. While it appears that the device taught by Hoff et al. and Hendrickson would be external to the vehicle and external to the equipment, it would at least have been obvious from Howard to provide it as an external system. Thus is known in the art and would have yielded predictable results to one having ordinary skill in this art at the time of the invention.

Response to Arguments

Applicant's arguments filed December 8, 2008 have been fully considered but they are not persuasive. Applicant argues that none of the applied art shows "the clutch disposed between the right angle gear mechanism and the power shaft", and that the examiner has not provided an indication or reference numeral for such component. It is the examiner's position that the Hoff et al. reference does show a clutch between the right angle gear mechanism 30, 35 and output shaft 46. Regarding the clutch, attention is directed to column 3, lines 4-35, of Hoff et al. where the clutch elements 50, 51 and 52 are discussed. It is still the examiner's position that the claims are properly rejected.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3655

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney H. Bonck whose telephone number is (571) 272-7089. The examiner can normally be reached on Monday-Friday 7:00AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (571) 272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rodney H. Bonck/
Primary Examiner, Art Unit 3655

rhb
March 12, 2009